

## PHARMACY BOARD[657]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 124.212B, the Governor’s Office of Drug Control Policy and the Iowa Board of Pharmacy hereby give Notice of Intended Action to amend Chapter 100, “Iowa Real-Time Electronic Pseudoephedrine Tracking System,” Iowa Administrative Code.

The proposed amendments were approved by the Governor’s Office of Drug Control Policy on January 19, 2012. The proposed amendments were approved by the Board of Pharmacy at the January 19, 2012, regular meeting of the Board.

These proposed amendments add probation or parole officer to the list of agents included in the definition of “law enforcement officer,” provide an alternative method of entering information into the pseudoephedrine tracking system (PTS) regarding a transaction completed when the PTS was unavailable, and clarify the processes for release of information from the PTS to law enforcement officers.

Interested parties may submit written comments on the proposed amendments not later than 4 p.m. on April 10, 2012, to Susie Sher, Wallace State Office Building, First Floor, 502 E. 9th Street, Des Moines, Iowa 50319; via facsimile to (515)725-0304; or via E-mail to [susie.sher@iowa.gov](mailto:susie.sher@iowa.gov).

These amendments are not subject to waiver.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 124.212B.

The following amendments are proposed.

ITEM 1. Amend rule **657—100.2(124)**, definition of “Law enforcement officer,” as follows:

“*Law enforcement officer*” means all of the following:

1. State police officer.
2. City or county police officer.
3. Sheriff or deputy sheriff.
4. State or public university safety and security officer.
5. Department of natural resources officer.
6. Certified or full-time peace officer of this or another state.
7. Federal peace officer.
8. Criminal analyst assigned to a law enforcement agency.
9. Probation or parole officer.

ITEM 2. Amend subrule 100.3(4) as follows:

**100.3(4) Availability of electronic PTS.** If the electronic PTS is unavailable for use, ~~the dispenser shall maintain a written record of each transaction pursuant to 657—subrule 10.32(6). The dispenser shall enter the information from the written record into the PTS within 72 hours of the time the PTS is again available and shall include in the electronic record that the record is a delayed entry.~~

~~a. A written record of each purchase shall be maintained pursuant to 657—subrule 10.32(6).~~

~~b. The information shall be provided to the office for inclusion in the PTS within 72 hours after the PTS becomes operational.~~

~~c. A PTS administrator shall enter the information from the written record into the PTS within 72 hours of receipt.~~

ITEM 3. Amend subrule 100.4(2) as follows:

**100.4(2) Law enforcement release.** PTS reports may be provided to a law enforcement officer ~~whose duty is to enforce the drug laws of this state, another state, or the United States pursuant to this subrule pursuant to rule 657—100.4(124).~~

*a.* A law enforcement officer shall register with the PTS prior to requesting reports. To ensure the identity of the officer and to maintain confidentiality of PTS information, the officer's identity shall be verified and registration shall be approved by the office or the administrator for the officer's agency.

*b.* ~~A law enforcement officer may request information or data from the PTS by providing to a PTS administrator a case or reference number for an ongoing investigation and by articulating reasonable suspicion.~~

*e. b.* ~~At the discretion of the office, law~~ Law enforcement officers ~~may~~ shall be given direct access to all data from the PTS pursuant to the federal Combat Methamphetamine Epidemic Act and 21 CFR § 1314.45.

*d. c.* If a law enforcement officer requests PTS information ~~on purchases or attempted purchases in excess of the monthly limit established in 657—subrule 10.32(3) or subrule 100.3(2), a subpoena or other court order is required~~ directly from the PTS, the law enforcement officer shall enter the purpose of the request into the PTS and shall certify the request is part of the officer's official duties.

*e.* ~~Data collected on purchases in excess of limits established pursuant to the federal Combat Methamphetamine Epidemic Act may be released to law enforcement officers by PTS administrators without a court order or articulating reasonable suspicion.~~